

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

ROBERT CABACOFF,

Plaintiff,

v.

FEDEX GROUND PACKAGE
SYSTEM, INC.,

Defendant.

Civ. A. No. 1:23-cv-00084

NOTICE OF REMOVAL

Pursuant to Sections 1332, 1441, and 1446 of Title 28 of the United States Code, Defendant FedEx Ground Package System, Inc. (“FedEx Ground”) hereby notices its removal of this action, which Plaintiff commenced against it in the Hillsborough Superior Court Southern District, captioned *Robert Cabacoff v. Federal Express-Ground*, Civil Docket No. 226-2022-CV-00517 (the “State Court Action”), to the United States District Court for the District of New Hampshire. The grounds for removal are as follows:

1. Defendant FedEx Ground has attached hereto as Exhibit A copies of the Summons, Instructions, Complaint, and Motions which constitutes all process, pleadings, and orders that Defendant has received. *See* 28 U.S.C. § 1446(a).

2. This Court has subject matter jurisdiction over this action because this is a civil action in which complete diversity of citizenship exists between Plaintiff and

Defendant, and the amount in controversy exceeds \$75,000, exclusive of interests and costs. *See* 28 U.S.C. § 1332(a).

3. This Court is the District Court of the United States for the district embracing the place where the State Court Action is pending and, accordingly, is the appropriate court for removal. *See* 28 U.S.C. § 1441(a).

4. According to his Complaint, and upon information and belief, Plaintiff is a citizen of the State of New Hampshire, domiciled in Nashua, Hillsborough County, New Hampshire.

5. Defendant FedEx Ground is a Delaware corporation with a principal place of business in Moon Township, Pennsylvania.

6. Diversity of citizenship existed between the parties at the time Plaintiff filed his Complaint and continues to exist to date.

7. In his Complaint, Plaintiff claims that Defendant violated New Hampshire RSA 275:56 by allegedly providing him access to an incomplete personnel file. Plaintiff further claims that FedEx Ground's alleged conduct breached the duty of good faith and fair dealing in RSA 304-C-111, that he was wrongfully discharged, and that FedEx Ground negligently inflicted emotional distress upon him. Plaintiff claims he is entitled to \$313,000.00. FedEx Ground denies these allegations.

8. As pled, this matter satisfies the "amount in controversy" requirement in diversity of citizenship matters, as if Plaintiff's damages are as claimed, the total would equal \$313,000.00. *See* 28 U.S.C. § 1332(a).

9. Defendant FedEx Ground will file a copy of this Notice of Removal in the State Court Action and provide copy of same to Plaintiff. *See* 28 U.S.C. § 1446(d).

10. Defendant FedEx Ground will file a certified or attested copy of all records and proceedings and all docket entries filed in the State Court Action within 14 days. *See* Loc. R. Civ. P. 81.1(c).

11. By filing this Notice of Removal, Defendant does not waive any defenses available to it.

WHEREFORE, Defendant FedEx Ground Package System, Inc. respectfully requests that this matter proceed as an action properly removed to the United States District Court for the District of New Hampshire from the Hillsborough County Superior Court Southern District.

Respectfully submitted,

FEDEX GROUND PACKAGE SYSTEM, INC.,

/s/ Joshua D. Nadreau

Joshua D. Nadreau (NH Bar 273017)

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Its Attorney

Dated: February 3, 2023

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed to the following
counsel of record and parties of interest on this date.

Robert Cabacoff
25 Morgan Street, Apt. 114
Nashua, New Hampshire 03064

Dated: February 3, 2023

/s/ Joshua D. Nadreau

Joshua D. Nadreau